



# Lamoine Board of Selectmen

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## Minutes of March 27, 2014

Chair Gary McFarland called the meeting to order at 6:00 PM at the Lamoine Consolidated School.

Present were: Selectmen Heather Fowler, Bernie Johnson, Gary McFarland, Jo Cooper, Nathan Mason (arrived at 6:30 PM); Administrative Assistant Stu Marckoon, Stephen Salsbury, Michael Brann, Kathleen DeFusco, Robert Christie, Michael Jordan, Harvey Griffin, Heidi & Jason Garrison, Kathie Gaianguet, Val Sprague and Cynthia Donaldson.

Carol Korty and Planning Board members James Gallagher & John Holt (arrived after public hearing)

**Agenda Review** – There were no changes offered to the printed agenda.

**Minutes** – March 6, 2014 – Heather moved to approve as written. Bernie 2<sup>nd</sup>. **Vote in Favor was 4-0.**

March 13, 2014 – Bernie moved to approve as written. Heather 2<sup>nd</sup>. **Vote in favor was 4-0.**

**Expenditure Warrant 18** – Selectmen signed the expenditure warrant in the amount of \$27,665.90. Stu said the plowing bill was the largest on the warrant.

**Cash & Budget Report** – Jo asked about using the cable TV fund to install cameras for the school. Stu said that is being discussed by the Cable TV Group.

**Foreclosed property** – Gary reported that he and Stu had both spoken with Harvey Griffin who wished to pay all the back taxes, fees, interest and other costs associated with the tax acquired property he formerly owned. He said it is unusual that the process would proceed this far without the former owner contacting the town.

Mr. Griffin said he could be in Monday to pay for the property in full. Jo said the town had made an extreme effort to communicate with Mr. Griffin. Mr. Griffin said he didn't open his envelopes and no one ever called him, so he didn't think it was important. Stu said Mr. Griffin's number was not listed.

Heather asked if this was his primary residence. Mr. Griffin answered that it was not. He said it was his grandfather's property. Heather said she was concerned that this had gone on for two years. Mr. Griffin said it would not happen with him again. Jo said she understands getting behind on taxes, but they do need to be paid. She asked what kind of message it sends that Mr. Griffin did not open his letter and now wants the property back. Mr. Griffin said he thought he was only 6-months behind and didn't open the letters because he wasn't worried about it. Jo said she has no desire to take anyone's property away, but the town has bills to pay and this has taken a lot of the town's time. She said she was not trying to scold Mr. Griffin, but the town could probably get more

money if the property was placed out for bid, and Mr. Griffin would be welcome to place a bid. Mr. Griffin said he would appreciate it if the town would not put the property up for bid. He said there should have been a courtesy call. A brief discussion followed.

Bernie said it seems like Mr. Griffin ends up paying about \$1,200 in penalties. There was a brief discussion about the situation with the folks living in the premises.

Jo said the Selectmen reserve the right to accept or reject bids and noted that in previous foreclosure auctions they have accepted a lower bid from a previous landowner. She said there would be a risk of losing the bidding but the property belongs to the town. She said she's not trying to be mean, but she was not very enthusiastic about selling the property back.

Gary said Mr. Griffin has heard the concerns and that if he could take care of paying for the property Monday, the Selectmen can't have this discussion with him again. He said tax payments can be split. Jo said she understands the concern for those who struggle to pay taxes and she tries as a Selectman to keep the tax rate low and that's frustrating. Heather asked if a spreadsheet distributed at the meeting was up to date. Stu said that it was as of this morning.

Gary moved to sell the tax acquired property back to Harvey Griffin for the price indicated on the spreadsheet (\$6,287.21) provided payment is completed by Tuesday, April 2, 2014. Bernie 2<sup>nd</sup>. **Vote was 2-2 (Fowler, Cooper opposed) – the motion failed.**

Jo moved to proceed with the bidding process and said she would invite Mr. Griffin to submit a bid. She said she is reluctant to stop the process. Heather said taxes are a serious issue. Mr. Griffin said he had the money and understands that he has to pay all the fees. Jo said she'd be willing to consider a bid from Mr. Griffin, but given the circumstances she is reluctant to set the process aside. Mr. Griffin said he was present to make amends. Jo said the board could delay a decision and reconsider the matter after the recess for the public hearing. Gary said if Nathan showed up later the board could bring the matter up again or carry it forward to the next agenda. Jo said she favored it being on the next agenda to reconsider. Gary confirmed that it would be on that agenda.

**Special Town Meeting Warrant** – Gary moved to sign a special town meeting warrant for a referendum on a petitioned amendment to the Building and Land Use Ordinance for June 10, 2014. Heather 2<sup>nd</sup>. **Vote in favor was 4-0, Selectmen signed several copies of the warrant.**

**Specimen Ballot** – Gary read the language from the proposed ballot.

Selectman Nathan Mason arrived at the meeting.

**Public Hearing for June 10, 2014 referendum question** – Heather moved to set May 22, 2014 as the hearing date for the referendum question at either 7:30 PM or

immediately following a special town meeting to be held on the school budget. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Recess** - The meeting recessed at 6:32 PM until 7:40 PM so the Board and audience could attend the Planning Board public hearing in the school gym.

**April 2014 Lamoine Quarterly** – Stu asked the Board to review the draft of the Lamoine Quarterly and e-mail any suggested changes. He said he would be updating the issue following tonight's meeting.

**Hodgkins Scholarship Committee** – Gary explained how the scholarship program works, noting that many college students have benefitted over the years. After discussion amongst the board members, Gary moved to appoint Nathan, Bernie and Heather to the award committee. Jo 2<sup>nd</sup>. A brief discussion followed on how much was available. **Vote in favor was 5-0.**

**Planet Aid Box** – Stu reported he could find no downside to the program. Nathan moved to accept the contract as written. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Request to delay enforcement on installation of monitoring wells in gravel pits.** – Gary said the request from Steve Salsbury came in via e-mail. Jo noted Mr. Salsbury had requested a delay from the planning board prior to requesting a delay from the Selectmen. She asked what the procedure was.

Mr. Salsbury said they are asking for a deferment of enforcement. He said the Planning Board is bound by the ordinance, but the pit owners he represents had to make the request of the Planning Board first. Gary asked if the wells need to be in by May 1<sup>st</sup> and if none are installed yet. Mr. Salsbury said that was correct.

Jo said the Planning Board minutes indicated that member Gordon Donaldson felt it might be wasteful to adhere to the May 1, 2014 deadline if a study leads to a change in the monitoring well requirement. She said she would be surprised if there were any new ordinance proposal by May 1. Mr. Salsbury said he would suggest that the delay be until November 2014 to see where things stand.

Gary said the Gravel Work Group is discussing the issue. Nathan noted that one pit would require a third monitoring well. Jo said if any extension were granted, there should be a hard deadline. Bernie asked how many additional wells are required. Mr. Salsbury said he has 12-permits that he maintains for his clients. Bernie asked if each pit has a well. Mr. Salsbury said each has a water table well, but not all of them have a good water quality well, though some do. Jo asked how many more were needed. Mr. Salsbury said the permits require 24 to 25 more wells. Jo said the question is part of the work group discussion.

Mr. Salsbury said the well requirement was part of the recent litigation and the pit owners agreed to study the idea with the town. He said the litigants are concerned and asking for time out of fairness. Heather asked if the wells would be over the aquifer. Mr.

Salsbury said they would. Heather asked if the wells were already being monitored for water quality. Mr. Salsbury said they not, but some of them could be. Jo asked what would happen if the Selectmen said not to put in more wells, but to monitor those that are in place. Mr. Salsbury said he would have to check with his clients.

Jo said she would prefer to stick with the ordinance. Mr. Salsbury said he didn't want to force a lawsuit back on the table. Nathan asked about the purpose of the existing wells.

John Holt said when a third well was requested, it was assumed the other two wells in a pit met the ordinance requirements. He said the May 1 deadline was a deferment for several months, and there was a history to this. He said he did not think it was proper for the Board of Selectmen to discuss and it is way out of the Selectmen's authority. Jo said the Selectmen are the enforcing authority. Rev. Holt said an enforcing authority that opts not to enforce is an untenable position. He read section 9 of the Building and Land Use Ordinance which refers to the Code Enforcement section. He said the Selectmen have the authority to hire the Code Enforcement Officer but they do not have the authority to tell the CEO not to enforcement an ordinance. He said not to enforce the conditions of the gravel permits would be a grave mistake and a failure of the Board's duty. He said the Planning Board administers the gravel permits and the Board of Selectmen does not have the right to alter conditions. He said it would be wrong to delay enforcement. He said the proper avenue for the gravel permit holders would be the Board of Appeals process. He asked the Board of Selectmen to deny the request from Mr. Salsbury and tell the pit owners they must comply with the ordinance.

Jo said the board is getting ahead of itself. She said if the pits don't comply with the conditions on the permits, the CEO would get a complaint and that hasn't happened yet. She said the pit owners upon receiving the notice of violation would have an opportunity to go to the Board of Appeals. She said the Selectmen do have certain authority, but it's not the right time, yet.

Rev. Holt said this matter will have to go to a town vote. He said it's a follow road to go down. Bob Christie asked about how the permit is monitored and assessed for compliance. He said there do not appear to be any easy solutions. Jim Gallagher of the Planning Board said the issue is not complex. He said the town faces a crisis in its own government. He said there is no accurate way to judge water quality in the town. He said the best data says you need to monitor water quality constantly. He said the ordinance is passed and is in law. He said if the Board violates the law, it violates the basis of government. He said there is a long history of refusal to comply with the ordinances and there is still a refusal. He said that has delegitimized the town government because the law was not enforced, and he has a serious problem with that. Jo asked what was not enforced. Mr. Gallagher said the pit owners had to have new licenses and the Planning Board asked Mr. Salsbury to put in the test wells, and he said no. A brief discussion followed.

Rev. Holt said the Planning Board deemed the applications incomplete, but the permits had expired. He said the Board of Selectmen voted not to enforce the lack of permit,

and that was the first time. He said the cause of the permit expiration was the refusal to put in the wells.

Jo said she takes issue with Mr. Gallagher's assertion that the town government is in danger because the Selectmen are not doing what they should do. She briefly reviewed the history of the gravel permits. She said the Board wants to enforce the law and they are trying to make sure the right steps are taken. She said it is sometimes mushy on what the Selectmen are supposed to do.

Carol Korty said the Selectmen were in error for not fining the gravel companies after their permits expired, and the Selectmen did not carry out the law. She said the board was under an obligation to fine the gravel companies. Mr. Salsbury said Mr. Gallagher alleged that the pit owners are renegades for not following the law, but yet there are no citations. He said his clients want to work with the town and they are trying to compromise on a sticky issue. He said the attorney for the pit owners felt the motion that he proposed was appropriate because they are not going to be able to get the wells in by May 1, 2014.

Rev. Holt said the permits will be void if no well is installed by May 1<sup>st</sup>. Gary said the Selectmen will have to look a little further into the matter. Mr. Salsbury said he would see if their attorney, Ed Bearor, would write an opinion on the matter. It was suggested that the Selectmen also consult with an attorney. Gary said the Selectmen would not drag their feet on the matter. Jo said she wanted to make sure it was even something the Selectmen could consider.

Kathie Gaianguest said it's important to know about the town's water supply. She said nothing has been done in 10-years since some monitoring suggestion was made, and the town needs it now. Stu asked what suggestion from 10-years ago she referred to. Ms. Gaianguest said it was the Gerber report. Stu said that was 31-years ago.

**Other Matters** – Jo said she would like the board to return to its goals discussion at the next meeting and discuss some communications goals.

Gary read a letter from Mr. & Mrs. Frederick Cahn that arrived earlier in the day expressing concern about recent vandalism in town. He said he had heard of some incidents where forest harvest equipment was destroyed, including putting sand in diesel tanks and cutting hydraulic hoses. Jo asked if this was a matter between private parties. Gary said the town has no police force. Jo said it is up to the affected parties to contact the state police. Gary said if the problem is caused by someone on a town committee, the Selectmen should be notified. Bernie said the Board should not stick its head in the sand if there is some sort of a vandal on a town committee. Gary said he knows of one incident that was not reported to the police, but the Selectmen have no mechanism to act on it. Nathan said he would encourage anyone who knows anything about such incidents to report them to the law enforcement. Bernie said this seems to be raising awareness. Selectmen agreed to have Stu draft up a response letter for Gary to sign.

**Next Meetings** – The Selectmen will meet on April 3, April 24, May 8 and May 22, with town meeting resuming on April 10.

Jo asked that Gary, as the new chair of the Selectmen, chair the Gravel Work Group meetings, and moved to appoint him to the group. Nathan 2<sup>nd</sup>. **Vote in favor was 4-0 (McFarland abstained).**

**Road Weight Exemption** – Jo moved to convey authority to the Road Commissioner to grant emergency exemptions for overweight vehicles to operate on locally posted roads. Gary 2<sup>nd</sup>. **Vote in favor was 5-0.**

**School Budget** – After a brief discussion about the timing, the Selectmen said that a special town meeting would occur on May 22, 2014 at 6:30 PM to deal with the school budget.

**Generator** – Stu said the project is coming along – he said he has 2 of the 3 estimates needed, and is just waiting for the cost to install propane tanks.

**Executive Session** – Gary moved to enter executive session pursuant to 1MRSA § 405 (6)(a) to discuss a personnel matter (transfer station attendant applicants). Jo 2<sup>nd</sup>. **Vote in favor was 5-0 at 8:50 PM. Out at 8:55 PM**

**Transfer Station Attendant** – Jo moved to offer the job to Chris Meyer. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0.**

There was a brief discussion regarding bills from Russell Boynton Jr. for maintenance work at the town parks and the bills from the town to Mr. Boynton for out of town trash. Stu said he was trying to straighten things out with Mr. Boynton's mother.

There being no further business, the meeting adjourned at 9:01 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen

Note: The meeting was held at the school and attempted to record on a camcorder, but the sound did not record.